

(iv) The connected exempt market maker or the connected exempt principal trader complies with the applicable provisions of the United Kingdom's City Code on Takeovers and Mergers; and

(v) The tender offer documents disclose the identity of the connected exempt market maker or the connected exempt principal trader and disclose, or describe how U.S. security holders can obtain, information regarding market making or principal purchases by such market maker or principal trader to the extent that this information is required to be made public in the United Kingdom; and

(10) *Purchases during cross-border tender offers.* Purchases or arrangements to purchase if the following conditions are satisfied:

(i) The tender offer is excepted under § 240.13e-4(h)(8) or § 240.14d-1(c);

(ii) The offering documents furnished to U.S. holders prominently disclose the possibility of any purchases, or arrangements to purchase, or the intent to make such purchases;

(iii) The offering documents disclose the manner in which any information about any such purchases or arrangements to purchase will be disclosed;

(iv) The offeror discloses information in the United States about any such purchases or arrangements to purchase in a manner comparable to the disclosure made in the home jurisdiction, as defined in § 240.13e-4(i)(3); and

(v) The purchases comply with the applicable tender offer laws and regulations of the home jurisdiction.

(c) *Definitions.* For purposes of this section, the term:

(1) *Affiliate* has the same meaning as in § 240.12b-2;

(2) *Agent independent of the issuer* has the same meaning as in § 242.100(b) of this chapter;

(3) *Covered person* means:

(i) The offeror and its affiliates;

(ii) The offeror's dealer-manager and its affiliates;

(iii) Any advisor to any of the persons specified in paragraph (c)(3)(i) and (ii) of this section, whose compensation is dependent on the completion of the offer; and

(iv) Any person acting, directly or indirectly, in concert with any of the

persons specified in this paragraph (c)(3) in connection with any purchase or arrangement to purchase any subject securities or any related securities;

(4) *Plan* has the same meaning as in § 242.100(b) of this chapter;

(5) *Public announcement* is any oral or written communication by the offeror or any person authorized to act on the offeror's behalf that is reasonably designed to, or has the effect of, informing the public or security holders in general about the tender offer;

(6) *Related securities* means securities that are immediately convertible into, exchangeable for, or exercisable for subject securities; and

(7) *Subject securities* has the same meaning as in § 229.1000 of this chapter.

(d) *Exemptive authority.* Upon written application or upon its own motion, the Commission may grant an exemption from the provisions of this section, either unconditionally or on specified terms or conditions, to any transaction or class of transactions or any security or class of security, or any person or class of persons.

[64 FR 61465, Nov. 10, 1999]

§ 240.14e-6 Repurchase offers by certain closed-end registered investment companies.

Sections 240.14e-1 and 240.14e-2 shall not apply to any offer by a closed-end management investment company to repurchase equity securities of which it is the issuer pursuant to § 270.23c-3 of this chapter.

[58 FR 19343, Apr. 14, 1993]

§ 240.14e-7 Unlawful tender offer practices in connection with roll-ups.

In order to implement section 14(h) of the Act (15 U.S.C. 78n(h)):

(a)(1) It shall be unlawful for any person to receive compensation for soliciting tenders directly from security holders in connection with a roll-up transaction as provided in paragraph (a)(2) of this section, if the compensation is:

(i) Based on whether the solicited person participates in the tender offer; or

(ii) Contingent on the success of the tender offer.

Securities and Exchange Commission

§ 240.14f-1

(2) Paragraph (a)(1) of this section is applicable to a roll-up transaction as defined in Item 901(c) of Regulation S-K (§229.901(c) of this chapter), structured as a tender offer, except for a transaction involving only:

(i) Finite-life entities that are not limited partnerships;

(ii) Partnerships whose investors will receive new securities or securities in another entity that are not reported under a transaction reporting plan declared effective before December 17, 1993 by the Commission under section 11A of the Act (15 U.S.C. 78k-1); or

(iii) Partnerships whose investors' securities are reported under a transaction reporting plan declared effective before December 17, 1993 by the Commission under section 11A of the Act (15 U.S.C. 78k-1).

(b)(1) It shall be unlawful for any finite-life entity that is the subject of a roll-up transaction as provided in paragraph (b)(2) of this section to fail to provide a security holder list or mail communications related to a tender offer that is in furtherance of the roll-up transaction, at the option of a requesting security holder, pursuant to the procedures set forth in §240.14a-7.

(2) Paragraph (b)(1) of this section is applicable to a roll-up transaction as defined in Item 901(c) of Regulation S-K (§229.901(c) of this chapter), structured as a tender offer, that involves:

(i) An entity with securities registered pursuant to section 12 of the Act (15 U.S.C. 78l); or

(ii) A limited partnership, unless the transaction involves only:

(A) Partnerships whose investors will receive new securities or securities in another entity that are not reported under a transaction reporting plan declared effective before December 17, 1993 by the Commission under section 11A of the Act (15 U.S.C. 78k-1); or

(B) Partnerships whose investors' securities are reported under a transaction reporting plan declared effective before December 17, 1993 by the Commission under section 11A of the Act (15 U.S.C. 78k-1).

[59 FR 63685, Dec. 8, 1994]

§ 240.14e-8 Prohibited conduct in connection with pre-commencement communications.

It is a fraudulent, deceptive or manipulative act or practice within the meaning of section 14(e) of the Act (15 U.S.C. 78n) for any person to publicly announce that the person (or a party on whose behalf the person is acting) plans to make a tender offer that has not yet been commenced, if the person:

(a) Is making the announcement of a potential tender offer without the intention to commence the offer within a reasonable time and complete the offer;

(b) Intends, directly or indirectly, for the announcement to manipulate the market price of the stock of the bidder or subject company; or

(c) Does not have the reasonable belief that the person will have the means to purchase securities to complete the offer.

[64 FR 61466, Nov. 10, 1999]

§ 240.14f-1 Change in majority of directors.

If, pursuant to any arrangement or understanding with the person or persons acquiring securities in a transaction subject to section 13(d) or 14(d) of the Act, any persons are to be elected or designated as directors of the issuer, otherwise than at a meeting of security holders, and the persons so elected or designated will constitute a majority of the directors of the issuer, then, not less than 10 days prior to the date any such person take office as a director, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor, the issuer shall file with the Commission and transmit to all holders of record of securities of the issuer who would be entitled to vote at a meeting for election of directors, information substantially equivalent to the information which would be required by Items 6 (a), (d) and (e), 7 and 8 of Schedule 14A of Regulation 14A (§240.14a-101 of this chapter) to be transmitted if such person or persons were nominees for election as directors at a meeting of such security holders.